

Remarks

Reconsideration and reexamination of the above-identified patent application are respectfully requested. Claims 1-29 are pending in this application upon entry of this Amendment. In this Amendment, claims 1 and 8 have been amended. Claims 16-29 are allowed. No claims have been canceled or added.

In the Office Action mailed September 28, 2006 claims 16-29 were allowed. However, the Examiner rejected claims 1-3, 5, and 6 as being anticipated by U.S. Patent No. 6,865,047 issued to Maekawa et al. (“Maekawa”). Claims 1-3, 5, 6, and 8-13 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,702,215 issued to Stamm et al. (“Stamm”). Claims 1-3 and 5-7 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2001/0011012 by Hino et al. (“Hino”).

The Examiner also rejected claims 1-3, 5, 6, and 15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,865,047 issued to Maekawa in view of U.S. Patent No. 7,077,489 issued to Waters (“Waters”). Claims 1-3, 5, 6, 8-13 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,702,215 issued to Stamm in view of Waters. Claims 1-3, 5-7, and 15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2001/0011012 issued to Hino et al. (“Hino”) in view of Waters. Claims 4 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Maekawa or Stamm or Hino; or each of Maekawa or Stamm or Hino, in view of Waters. Finally, the Examiner rejected claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Stamm in view of Hino.

Claim Rejections - 35 U.S.C. § 102(e) and 103(a)

I. Rejections based on 35 U.S.C. §102(e)

Regarding the rejections based on 35 U.S.C. §102(e), the Examiner asserts that the limitation “a detection of a decrease in amplitude at the transmitting antenna indicates the presence of the memory device” carries “no patentable weight because it is not associated with a structural difference of the claimed tape cartridge.” Independent claims 1 and 8 have been

amended, thereby rendering the Examiner's rejections moot. Additionally, the Examiner concedes that Maekawa, Stamm and Hino do not disclose a detection of a decrease in amplitude at the transmitting antenna that indicate the presence of the memory device. Accordingly amended independent claims 1 and 8 are patentable over the cited references as each and every limitation of the claims are not disclosed or taught by the cited references. Applicant respectfully requests withdrawal of the rejections. For at least the same reasons the claims dependent upon independent claims 1 and 8 are likewise patentable over the cited references.

II. Rejections based on 35 U.S.C. §103(a)

As to the rejections based on 35 U.S.C. §103(a), the Examiner concedes that Maekawa, Stamm and Hino do not disclose a detection of a decrease in amplitude at the transmitting antenna indicates the presence of the memory device. However, the Examiner asserts that Waters cures the deficiencies of Maekawa, Stamm and Hino by disclosing that a "a drop of amplitude across a transmitter can be utilized to detect the presence of a memory." (Office Action - page 5, #8).

Applicant submits that it is well settled law that the mere fact that prior art may be modified in the manner suggested by the Patent Office does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 USPQ 2d 1780, 1783-1784 (Fed. Cir. 1992). Hindsight cannot be used to support a modification. "It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together teachings of the prior art so that the claimed invention is rendered obvious." *Id.* at 1784. As such, the Examiner must explain the motivation to combine or modify the prior art references.

Applicant submits that Waters does not disclose, teach or suggest nor has the Examiner explained how Waters discloses a detection of a decrease in amplitude at the transmitting antenna that indicates the presence of the memory device, as recited by independent claims 1, 8 and 15. In fact, the system of Waters does not disclose, teach or suggest a memory device as recited by independent claims 1, 8 and 15. Particularly, Waters

discloses a system for printing and memory tag placement onto a base medium such as sheet paper. (Waters - Col. 3, lines 25-27). The system of Waters includes a memory tag dispenser 20 connected to a print head 16 for movement back and forth along a print head carriage 18 with the print head 16 merely to enable the memory tag dispenser 20 to apply memory tags to an accessible area of a surface. (Waters - Col. 3, lines 48-56). The memory tag dispenser 20 further includes a data write station 38 that is used to write data to memory tags while being on a substrate. (Waters - Col.3, line 65 - Col. 4, line 7).

Contrary to the Examiner's assertion, Waters discloses measuring a drop in voltage to determine the power consumed by a memory tag and not detecting a decrease in amplitude at a transmitting antenna that indicates the presence of a memory device. As described above, Waters does not disclose, teach or suggest a memory device. Specifically, Waters discloses "In RFID systems such as this the power consumed by the memory tag 24 can be measured as a drop in voltage across the internal resistance of the antenna coil L2 of the data write device 38." (Waters - Col. 5, lines 30-33). The data write device 38 is merely a device for writing data to memory tags. Based on at least the foregoing, Waters does not cure the deficiencies of Maekawa, Stamm and Hino. Thus, independent claims 1, 8, and 15 are patentable over the cited references and Applicant respectfully requests withdrawal of the rejections. For at least the foregoing reasons the respective dependent claims of independent claims 1, 8 and 15 are likewise patentable by at least their dependence upon their respective independent claims.

Conclusion

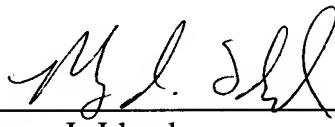
In summary, claims 1-29 meet the substantive requirements for patentability. The case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone or video conference would expedite allowance or resolve any further questions, such a question is invited at the convenience of the Examiner.

Please charge any fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

STEVEN MICHAEL KIENTZ, et al.

By


Myron J. Lloyd
Reg. No. 53,228
Attorney/Agent for Applicant

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BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351